

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**JAMES E. SHERROD,**

**Petitioner,**

**v.**

**STATE OF NEBRASKA, and  
DIANE SABATKA-RINE,**

**Respondents.**

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**CASE NO. 4:07CV3216**

**MEMORANDUM  
AND ORDER**

Petitioner has filed a petition for writ of habeas corpus under 28 U.S.C. § 2254, an application to proceed in forma pauperis, and a copy of his institutional trust account statement. After reviewing the statement, I find that petitioner's average monthly income, as reflected in the trust account statement is \$0.16.

Habeas corpus cases attacking the legality of a person's confinement require the payment of a \$5.00 fee. 28 U.S.C. § 1914(a). However, pursuant to 28 U.S.C. § 1915(a)(1)-(2), and after considering the petitioner's financial status as shown in the records of this court, provisional leave to proceed in forma pauperis will be granted and the petitioner is relieved from paying the fee at this time.

**IT IS ORDERED:**

The application to proceed in forma pauperis, (Filing No. 2), is provisionally granted and the petitioner will not be required to pay the \$5.00 fee at this time.

DATED this 3<sup>rd</sup> day of October, 2007.

**BY THE COURT:**

s/Laurie Smith Camp  
United States District Judge